

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Children's Television Obligations)	MM Docket No. 00-167
Of Digital Television Broadcasters)	
)	
)	

**COMMENTS OF
PROFESSIONAL AND COLLEGIATE
SPORTS INTERESTS**

The Office of the Commissioner of Baseball ("MLB"), National Hockey League ("NHL"), National Collegiate Athletic Association ("NCAA"), Division 1-A Collegiate Commissioners Association ("CCA"), National Association of Stock Car Auto Racing, Inc. ("NASCAR"), PGA Tour, Inc. ("PGA Tour"), Professional Golfers Association, Inc. ("PGA"), and IMG Worldwide, Inc. ("IMG") (collectively, "Professional and Collegiate Sports Interests") hereby file Comments in support of the proposed action by the Commission in its *Second Further Notice of Proposed Rule Making* in MM Docket No. 00-167.

Background

On September 9, 2004, in its *Report and Order and Further Notice of Proposed Rule Making* in MM Docket No. 00-167,¹ the Commission adopted regulations dealing with the obligations of television licensees to provide educational programming for children. Among changes made from earlier regulations, the Commission stated that it would

limit the number of preemptions under our processing guideline to no more than 10 percent of core programs in each calendar quarter. Each preemption beyond the 10 percent limit will cause that program not to count as core under the processing guideline, even if the program is rescheduled. We will exempt from this preemption limit preemptions for breaking news.²

In its *Second Further Notice*, however, the Commission proposed to adopt a recommendation from a Joint Proposal of Industry and Advocates on Reconsideration of Children's Television Rules. In the Joint Proposal, the parties -- which included, among others, the National Parent Teacher Association, the American Academy of Pediatrics, the American Psychological Association, and the United Church of Christ -- urged the FCC not to adopt any percentage or other numerical limit on preemptions, but

¹ 19 FCC Rcd 22943 (2004)

² Id. at 22958. On December 16, 2005, the Commission extended the effective date of the new rules until 60 days after publication in the Federal Register of an order on reconsideration in the proceeding.

rather to continue its current practice of reviewing compliance with the policy by each station (or network)³ on a case-by-case basis. This would ensure that no station engaged in excessive preemptions. In its *Second Further Notice*, the Commission noted that this could benefit children's programming as well, since it would provide greater scheduling flexibility.⁴

Statement of Position

The Professional and Collegiate Sports Interests support the suggested changes of the Joint Proposal.

The Commission's action in the initial *Report and Order* could have forced Pacific and Mountain Time Zone stations into an untenable position. The effect of that new rule would have been either to put in jeopardy the licenses of perhaps hundreds of television broadcast stations (if scheduled children's programming was preempted) or deny millions of sports fans the opportunity to see important events (if the sports telecasts were not carried by the stations).

If they chose to air occasional sports telecasts during those Saturday morning hours, the stations would have been precluded from scheduling children's programming on a regular basis during the hours most suited for them. On the other hand, if the stations chose to air children's programming, national (and potentially some local) television broadcasting of Saturday afternoon sporting events would not have been available. Early Saturday afternoon telecasts of games from the Eastern or Central Time Zones – which would be telecast in the Pacific or Mountain Time Zones during the Saturday morning hours generally reserved for children's programming – would have been limited to one per station during each quarter of the year.

The Commission instead should recognize that an occasional shifting of children's programming – as long as FCC oversight is maintained – best serves the public interest. Obviously, much greater flexibility is available in re-scheduling any affected children's programming than in not carrying sports events at all or attempting to show them on a delayed basis.

Each of the Professional and Collegiate Sports Interests has or in recent years has had (or has negotiated) early Eastern or Central Time Zone Saturday telecasts which might be subject to the rule if the new rule limiting preemptions went into effect and stations chose to commit Saturday morning to children's programming.⁵

No single network has an excessive number of events that begin during the hours generally reserved for children's programming in the Pacific or Mountain Time Zones. Further, it is highly

³ Joint Proposal at 5-6.

⁴ *Second Further Notice* at 9.

⁵ For example, see **MLB**, Los Angeles Dodgers @ Washington, 5/27/06; start time 1:00; **NHL**, Minnesota @ Dallas, 4/15/06, NBC, start time 2:00; **NCAA**, George Washington vs. Duke, NCAA Tournament, 3/18/06, CBS, start time 1:10; **CCA**, Big 12 Championship, 12/3/05, ABC, start time 1:00; **NASCAR**, Ford 300, 11/20/04, NBC, start time 1:00; **PGA Tour**, Players Championship, 3/27/04, ABC, start time 2:00; **PGA**, PGA Championship, 8/14/04, CBS, start time 2:00; **IMG**, British Open, 7/17/04, ABC, start time 9:00. (All times listed Eastern.) Other events likewise, such as the Winter and Summer Olympics or World Cup Soccer, would have been impacted by the proposed rules.

unlikely that any significant number of new events will be scheduled during the time periods in question.

In any case, however, the Commission will retain oversight of the issue to prevent potential abuse. The Professional and Collegiate Sports Interests support the Proposal's urging that the Commission "maintain its current practice to ensure, on a case-by-case basis, that broadcasters do not engage in excessive preemptions."⁶ Finally, as the Commission noted, there could be other benefits as a result of maintaining the current approach:

...[T]he change proposing that the Commission lift its numerical limits on children's programming preemptions would, if adopted, provide programmers greater flexibility in the scheduling of children's programming.⁷

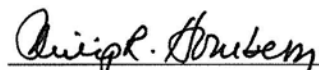
Conclusion

The reestablishment of case-by-case oversight by the Commission's staff will, as the networks have said, "accommodate 'two all-American priorities' (children and sports) and permit occasional sports preemptions by codifying certain aspects of the staff's flexible administration...."⁸

For the reasons stated above, the Professional and Collegiate Sports Interests support the adoption of the Joint Proposal of Industry and Advocates on Reconsideration of Children's Television Rules.

Respectfully submitted,

PROFESSIONAL AND COLLEGIATE SPORTS
INTERESTS



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⁶ See note 3.

⁷ See note 4.

⁸ Petition for Reconsideration of Fox Entertainment Group, Inc., NBC Universal, Inc. and Viacom, filed in MM Docket No. 00-167, February 2, 2005.

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